

Department of

IOWA  **REVENUE**

Tax and Revenue Implications for 501(c)(3) Corporations

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--DISCLAIMER--

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Six primary types of taxes to consider:

1. Income tax;
2. Sales tax;
3. Use tax;
4. Local option sales tax (LOST) and school infrastructure local option tax (SILO);
5. Hotel/motel tax; and
6. Motor fuel taxes.

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We'll cover two types of taxes today:

1. **Income tax.**
2. **Sales tax.**
3. Use tax – for another day.
4. Local option sales tax (LOST) and school infrastructure local option tax (SILO) – SAME TREATMENT AS SALES TAX.
5. Hotel/motel tax – NO EXEMPTION.
6. Motor fuel tax – NO EXEMPTION.

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IOWA INCOME TAX

- No annual reporting to IDR required for charitable organizations
- 501(c)(3) corporations exempt under Code section 422.34(2)
 - Charitable organizations
 - Religious organizations
 - Educational institutions

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FEDERAL INCOME TAX

- Charitable organizations must file Form 990 with IRS on an annual basis
- 276,000 form 990 returns filed with IRS nationwide for 2004, reporting \$2 trillion in assets and \$1.1 billion in revenue

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FEDERAL INCOME TAX – EXCESS COMPENSATION

- Must set reasonable compensation
- Collect comparable survey data (if done, burden of proof shifts to IRS)
- If excess compensation, excise tax is imposed on individual pursuant to Sec. 4958 of Internal Revenue Code
- Nonprofit status can be retained if tax paid (If appropriate, IRS can revoke)

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FEDERAL AND IOWA INCOME TAX

- Nonprofits with unrelated business income must file 990-T form and pay tax on unrelated business income in excess of \$1,000 – Section 422.33(1A)
- Federal – 18,000 returns, \$367 million tax paid for 2004
- Iowa – 432 returns, \$700,000 tax for 2006

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FEDERAL REPORTING

- IRS maintains lists of nonprofit organizations on website – www.irs.gov.
- Lists of revoked nonprofits also available on IRS website
- IRS has Exempt Organizations division which addresses nonprofit issues

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PUBLIC INSPECTION OF NONPROFIT RETURNS

- Nonprofits must make form 990 available for public inspection and copying (3 years)
- Nonprofits must make form 990-T available to public for filings after August 17, 2006)

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SUMMARY

- Department of Revenue has no current expertise regarding audits of nonprofits
- Department relies currently on IRS determinations of nonprofit status

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SALES TAX

- Two perspectives:
 1. Sales *TO* non-profits; and
 2. Sales *BY* non-profits.
- Sales to 501(c)(3) entities.
 - NOT automatically exempt from paying sales tax on taxable goods and services.
 - Usual exemptions apply, e.g. items for resale, food.

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- Sales by 501(c)(3) entities.
 - Sales by entities engaged in educational, religious and/or charitable activities are exempt from sales tax so long as:
 - Sales price must be for a retail sale or rental of tangible personal property or taxable services;
 - Profits must be used by or donated to:
 - Another 501(c)(3) entity;
 - A government entity; or
 - A private, non-profit educational institution.
 - Profits must be expended on educational, religious, or charitable activities.

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- Benefits
 - No annual tax filing required to IDR
- Fiscal impact on local government:
 - Property tax exemption
- Abuses and concerns
 - Sales tax exemptions – must be used for exempt purchases
 - Purchases subject to sales tax